

FOREIGN CLAIMS SETTLEMENT COMMISSION  
OF THE UNITED STATES  
WASHINGTON, D.C. 20579

IN THE MATTER OF THE CLAIM OF

GRADY L. SMITH

Claim No. CU-8621

Decision No. CU-5168

Under the International Claims Settlement  
Act of 1949, as amended

AMENDED PROPOSED DECISION

On July 22, 1970, the Commission issued a Proposed Decision in this matter certifying a loss to claimant in the amount of \$2,464.34 based on First Mortgage bonds issued by The Cuba Railroad Company to claimant in 1959.

Since then claimant has submitted evidence concerning his ownership of preferred stock of The Cuba Railroad Company. Accordingly, the Proposed Decision is amended.

In our decision entitled the Claim of Irwin Nash, et al (Claim No. CU-1960 which we incorporate herein by reference), we held that the properties owned by the Railroad were nationalized or otherwise taken by the Government of Cuba on October 13, 1960, and that this type of claim is compensable to an American national under the facts and conditions set forth therein.

Section 504 of the Act provides, as to ownership of claims, that

(a) A claim shall not be considered under section 503(a) of this title unless the property on which the claim was based was owned wholly or partially, directly or indirectly by a national of the United States on the date of the loss and if considered shall be considered only to the extent the claim has been held by one or more nationals of the United States continuously thereafter until the date of filing with the Commission.

On the basis of evidence of record, the Commission finds that claimant acquired 20 shares of preferred stock of The Cuba Railroad Company by purchase on October 19, 1960 for a consideration of \$92.70.

Under the provisions of Section 504(a) of the Act, a claimant is required to establish that the claim for any loss has been continuously owned by a national or nationals of the United States from the date of loss to the date of filing with the Commission. The loss occurred on October 13, 1960. In similar cases, claimants have been unable to obtain information or evidence to establish the nationality of the owner of the securities on the date of loss, and to establish continuous United States ownership of the securities until the date on which claimant acquired them.

Evidence of record before the Commission discloses that securities of the type subject of this claim were almost entirely owned and traded by persons or firms having addresses in the United States. The Commission has considered whether an inference may be justified that the claimed securities were continuously owned by a national or nationals of the United States from the date of loss to the date on which purchased by the claimant, and, in the absence of evidence to the contrary, has concluded that the securities were continuously so owned. (See Claim of Samuel J. Wikler, et al., Claim No. CU-2571, 1968 FCSC Ann. Rep. 47.)

Section 507 of the Act provides, as to assignment of claims, that

(b) The amount determined to be due on any claim of an assignee who acquires the same by purchase shall not exceed (or, in the case of any such acquisition subsequent to the date of the determination, shall not be deemed to have exceeded) the amount of the actual consideration paid by such assignee, or in case of successive assignments of a claim by any assignee.

The Commission finds that claimant, as an assignee by purchase, acquired the claim for the loss sustained by the assignor of the said 20 shares of preferred stock, but under the limitations provided in Section 507 of the Act (supra), is limited to \$92.70, the actual consideration paid for these shares.

The Commission has decided that in certification of losses on claims determined pursuant to Title V of the International Claims Settlement Act of 1949, as amended, interest should be included at the rate of 6% per annum from the date of loss to the date of settlement. (See Claim of Lisle Corporation, Claim No. CU-0644.)

The Commission concludes, however, that the amount of loss sustained by claimant herein shall be increased by interest thereon at the rate of 6% per annum from the dates below to the date on which provisions are made for the settlement thereof:

<u>FROM</u>	<u>ON</u>
October 13, 1960	\$2,464.34
October 19, 1960	<u>92.70</u>
	\$2,557.04


Accordingly, the Certification of Loss, as restated below, will be entered, and in all other respects the Proposed Decision is affirmed.

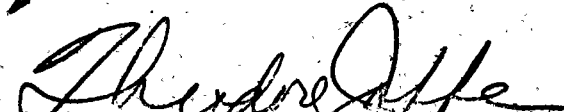
CERTIFICATION OF LOSS

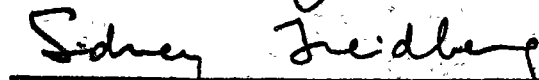
The Commission certifies that GRADY L. SMITH suffered a loss, as a result of actions of the Government of Cuba, within the scope of Title V of the International Claims Settlement Act of 1949, as amended, in the amount of Two Thousand Five Hundred Fifty-seven Dollars and Four Cents (\$2,557.04) with interest at 6% per annum from the aforesaid dates to the date of settlement.

Dated at Washington, D. C., and  
entered as the Amended Proposed  
Decision of the Commission

AUG 6 - 1970

  
Lyle S. Garlock, Chairman

  
Theodore Jaffe, Commissioner

  
Sidney Freidberg, Commissioner

NOTICE TO TREASURY: The above-referenced securities may not have been submitted to the Commission or if submitted, may have been returned; accordingly, no payment should be made until claimant establishes retention of the securities or the loss here certified.

The statute does not provide for the payment of claims against the Government of Cuba. Provision is only made for the determination by the Commission of the validity and amounts of such claims. Section 501 of the statute specifically precludes any authorization for appropriations for payment of these claims. The Commission is required to certify its findings to the Secretary of State for possible use in future negotiations with the Government of Cuba.

NOTICE: Pursuant to the Regulations of the Commission, if no objections are filed within 15 days after service or receipt of notice of this Amended Proposed Decision, the decision will be entered as the Final Decision of the Commission upon the expiration of 30 days after such service or receipt of notice, unless the Commission otherwise orders. (FCSC Reg., 45 C.F.R. 531.5(e) and (g), as amended, 32 Fed. Reg. 412-13 (1967).)

CU-8621

FOREIGN CLAIMS SETTLEMENT COMMISSION  
OF THE UNITED STATES  
WASHINGTON, D.C. 20579

IN THE MATTER OF THE CLAIM OF

GRADY L. SMITH

Under the International Claims Settlement  
Act of 1949, as amended

Claim No. CU -8621

Decision No. CU 5168

PROPOSED DECISION

Claimant, GRADY L. SMITH, who owned a First Mortgage bond issued by the Cuba Railroad Company, asserts a claim under Title V of the International Claims Settlement Act of 1949, as amended, against the Government of Cuba because of its nationalization of said Company.

In our decision entitled the Claim of Joseph Gans (Claim No. CU-1720 which we incorporate herein by reference), we held that the properties of the Railroad were nationalized or otherwise taken by the Government of Cuba on October 13, 1960, and that this type of claim is compensable to an American national under the facts and conditions set forth therein. We need not again detail here the reasons or the method used in determining the value per \$1,000 bond of \$492.86 including interest to October 13, 1960.

On the basis of evidence in the record in the instant case, the Commission finds that this claimant comes within the terms of the Gans decision; that he was an American national at the requisite times; that he has been the owner of 5 First Mortgage bonds issued by the Cuba Railroad Company since prior to October 13, 1960; and that he suffered a loss in the amount of \$2,464.30 within the meaning of Title V of the Act. Further, the Commission finds that the amount of loss sustained shall be increased by interest thereon at the rate of 6% per annum from October 13, 1960, the date of loss, to the date on which provisions are made for the settlement thereof.

(See Gans, supra.)

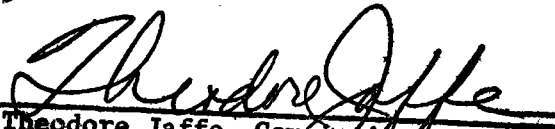
CERTIFICATION OF LOSS

The Commission certifies that GRADY L. SMITH suffered a loss, as a result of actions of the Government of Cuba, within the scope of Title V of the International Claims Settlement Act of 1949, as amended, in the amount of Two Thousand Four Hundred Sixty-Four Dollars and Thirty-Four Cents (\$2,464.34 ) with interest at 6% per annum from October 13, 1960 to the date of settlement.

Dated at Washington, D. C.,  
and entered as the Proposed  
Decision of the Commission

JUL 22 1970

  
Lyle S. Garlock, Chairman

  
Theodore Jaffe, Commissioner

  
Sidney Freidberg, Commissioner

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NOTICE: Pursuant to the Regulations of the Commission, if no objections are filed within 15 days after service or receipt of notice of this Proposed Decision, the decision will be entered as the Final Decision of the Commission upon the expiration of 30 days after such service or receipt of notice, unless the Commission otherwise orders. (FCSC Reg., 45 C.F.R. §531.5(e) and (g), as amended, 32 Fed. Reg. 412-13 [1967].)